

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

WEDNESDAY, THE TWENTY SEVENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR

AND

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT APPEAL NO : 1633 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 13/08/2004 in
WP No. : 21618 OF 1998 on the file of the High Court.)

Between:

1. Govt of A.P., rep. by its Secretary Education Dept.,
Secretariat, Hyderabad.
2. Commissioner & Director of School Education, A.P., Hyderabad.
3. Regional Joint Director of Education, Kakinada.
4. District Educational Officer, E.G. Kakinada.

.....APPELLANTS.

AND

1. T. Padmavathi Devi, W/o. S.P.K. Sarma, 37 years,
Housing Board Colony, LIG 394, Rajahmundry.
2. K. Anuradha, W/o. Ch. Subrahmanyam, 34 years,
Yerukonda Bldgs., Danavapeta, Rajahmundry.
3. K.R.L. Kameswari, W/o. B.V.K. Mohana Rao, 31 years,
Vadravunilayam, Danavapeta, Rajahmundry.
4. R. Saraswathi Devi, W/o. Y.Venkanna, 45 years, SKVTEM School,
Danavaipeta, Rajahmundry.
5. N.C.V. Bharathi, W/o. M.C.N. Iyengar, 53 years, Innapeta, Rajahmundry.
6. A. Subba Rtnam, W/o. J.C. Gurumurthy, 36 years,
Spl. Dhara Apartments, Danavaipeta, Rajahmundry.
7. Lakshmi Natrajan, W/o. C.S.Natrajan, 47 years, 75-4-2, Prakashnagar, Rajahmundry.
8. K. Ravindranath, S/o. K. Koteswararao, 35 years,
86-12-6, Tilak Road, Rajahmundry.
9. P. Nagabhushana Rao, S/o. Nageswararao, 39 years,
46-11-27, Danavaipeta, Rajahmundry.
10. V.B.V.S. Prabha, W/o. M.J. Prasa, 45 years,
74-3-5, Prakashnagar, Rajahmundry.
11. Secretary & Correspondent/Executive Officer, S.K.V.T. English Medium High School,
Rajahmundry.

12. N. Santha Devi, Teacher, V.T.High School, Rajahmundry.
13. M.S.L. Vasantha Kumari, V.T.High School, Rajahmundry.

.....RESPONDENTS.

Counsel for the Appellants: GP FOR SCHOOL EDUCATION

Counsel for the Respondents : MR.P.RAMA RAO

The Court made the following :

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JUDGMENT : (Per Honourable Sri Justice J.Chelameswar)

Aggrieved by a Judgment dated 13.8.2004 passed by the learned single judge in

W.P.No.21618 of 1998, the respondents therein, preferred the present appeal.

The writ petitioners, the respondents herein were admittedly appointed by the 11th respondent herein. It appears that the respondents 1, 2, 7 and 10 were appointed prior to the issuance of G.O.Ms.No.524 dated

20-12-1998 and respondents 3,4,5,6,8 and 9 were appointed subsequent to the abovementioned G.O. during 20-12-1988 and 1-1-1994. It appears that a large number of such appointments were made during those days, by several managements in controversion of various rules prescribed under the above mentioned G.O.Ms.No.524 dated 20-12-1998. When the appellants herein the Education Department, State of A.P. sought to take action against the managements, thereby, effecting the appointments, a number of teachers who were irregularly appointed, approached this Court earlier in W.P.No. 15921 /89 and Batch. A Division Bench of this Court in a Judgment reported in 1997 (6) A.L.D. 331 (DB)-(1) on an over-all consideration of the matter held that the several appointments were not in accordance with G.O.Ms.No.524. This Court nevertheless directed the Government to constitute a Committee to examine those cases of irregular appointments in accordance with certain guidelines laid down by the Division Bench in K.C.High School, Guntur V. Govt.of A.P.,Edn., Dept.Hyd. as under:

“31. Keeping all these considerations in view, we deem it just and proper to dispose of these writ petitions with the following directions:

1. *The Government will constitute a committee of officials either region-wise or State-Wise which will go into the performance, service record and basic qualifications of the teachers who have been irregularly appointed by the private managements concerned contrary to G.O.Ms.No.524 (Education, Rules) dated 20-12-1988. The Managements (Educational agencies) shall produce before the Committee the relevant record and information so as to enable the committee to judge the suitability of the candidates to be continued. Any information available with the Managements with regard to the performance of the teachers so appointed will be placed before the Committee. The Committee shall interview the teachers if deemed necessary. It is however made clear that the Committee shall have due regard to the experience gained by the teachers during this interregnum.*
2. *The process of scrutiny by the Committee shall be completed within a period of four months from the date of receipt of this judgment.*
3. *The respondents concerned will extend the benefit of grant-in-aid for the posts held by these teachers, to the teachers found suitable for continuance,*

with effect from 1-4-1997 provided they have been appointed against clear vacancies and sanctioned posts.

4. *As far as those teachers whose appointments were once approved by the competent Officer of Education Department but later on the approval was withdrawn without notice on the ground that the procedure as per Rule 15 had not been followed, they shall be continued unless any subsequent disqualification comes in their way. They shall be paid salaries from out of the State funds from 1-1-1997 onwards.*

W.P.No.14316 of 1992 wherein the appointment of P.Ruth Catherine in Salvation Army Elementary School, Vemuru is in issue falls within this category.

(5) The above directions will apply mutatis mutandis to non-teaching staff, who were irregularly appointed during the relevant period.

6. *For the intervening period during which the teaching/non-teaching staff worked, the Managements are liable to pay salaries and the scale of salary should be worked out as per mutual negotiations.*

7. *The arrears of salaries as above should be paid or grant-in-aid be released within six months from the date of receipt of judgment.”*

From an examination of the above guidelines, it is apparent that this Court directed that all those appointments made in contravention of G.O.Ms.No.524 till the date of the above mentioned judgment i.e., 31st December, 1996 should be considered by the Committee that was directed to be constituted.

The case of the party respondents herein also is that they fall within the scope of the above directions and that their cases had also been considered by the committee that was constituted pursuant to the directions of the Division Bench of this Court. As a matter of fact, in obedience with the directions issued by this Court in the above mentioned Judgment, a Committee was constituted in G.O.Ms.No.301 dated 25-9-1997 and the Committee considered large number of cases.

In the present case also, an interim direction was granted by this Court in W.P. No.

21618 of 1998 dated 29-6-1999 directing the 11th respondent Management to submit proposals to the District Educational Officer, East Godavari District, Kakinada, who in turn was directed to place the matter before the Committee constituted under G.O. Ms. No.301 dated 25-9-1997 for consideration of regularization of the services of the writ petitioners. The proposals were, however, sent by the Management only on 18-1-2000. Meanwhile, G.O.Ms.No.93 dated 3-12-1999 was issued abolishing the committee constituted under G.O.Ms.No.301. The writ petition against which the present appeal arises came to be disposed off as already noticed on 13-8-2004 i.e., subsequent to the issuance of G.O.Ms.No.93.

The learned single Judge, on a consideration of the material, came to the conclusion that the case of the petitioners- party respondents herein clearly fell within the scope of the G.O.Ms.No.301, and therefore, directed that their cases be also placed before the Committee. The fact that the case of the writ petitioners-party respondents otherwise falls within the scope of G.O.Ms.No.301 cannot be disputed. The only submission made by the learned Government pleader is that in view of the abolition of the Committee constituted under the G.O.Ms.No.301, the direction of the learned single judge cannot be complied with.

We regret our inability to accept the submission as the abolition of the committee is not an irreversible step. The case of the Writ petitioners/party respondents is required to be considered in view of the principles laid down by the Division Bench referred to earlier as also the interim orders granted by this Court on 29-6-1999 in the Writ Petition as many others who are similarly situated were already considered by the Committee in obedience to the directions of the Division Bench. It is not that the Government is without the administrative power to constitute a Committee afresh to consider the case of the writ petitioners.

In the circumstances, we do not see any merits in the writ appeal. The writ appeal, is therefore, dismissed at the stage of admission.

Justice J.Chelameswar

Justice Goda Raghuram

Date: 27th October, 2004.

Dvs/Knk

To

Two CD copies.

HONOURABLE SRI JUSTICE J.CHELAMESWAR

&

HONOURABLE SRI JUSTICE GODA RAGHURAM

W.A. No. 1633 of 2004

27th October, 2004

